

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

UNITED STATES OF AMERICA §
§
VS § **CASE NO. 17-CR-153-01**
§
ALVARO ROMERO §

**DEFENDANT'S UNOPPOSED MOTION TO VACATE ORDER OF
ACCEPTANCE OF DEFENDANT'S GUILTY PLEA**

Defendant Alvaro Romero, moves this Honorable Court to enter an order vacating acceptance of his guilty plea. In support thereof, defendant respectfully shows the following:

I.

On August 6, 2018, defendant appeared before U.S. Magistrate Judge Keith F. Giblin for a CHANGE of PLEA hearing. Defendant was informed of rights, and entered a plea of guilty to Counts 1 and 2.

On August 10, 2018, co-defendant Worrell filed a Motion to Suppress Wiretap Evidence in this case (Dkt. 172). The Court's granting of this motion may result in a favorable resolution in defendant's case.

On August 20, 2018, defendant filed an unopposed motion to adopt co-defendant Worrell's Motion (Dkt. 178). The Court granted defendant's motion to adopt. (Dkt. 193)

On August 20, 2018, defendant filed an unopposed motion to defer acceptance of the guilty plea. (Dkt. 179)

On September 11, 2018, U.S. Magistrate Judge Keith Giblin issued his Findings of Facts and Recommendation on defendant's guilty plea. (Dkt. 195)

On September 26, 2018, this court accepted the Magistrate Judge's Findings, and adjudged defendant guilty. (Dkt. 196)

II.

Mr. Romero filed an unopposed motion to defer acceptance of his plea a month prior to the court acceptance. The motion still remains pending and has not been addressed by the court.

The court has not made a ruling on co-defendant Worrell's Motion to Suppress Wiretap Evidence in this case. Mr. Romero had an interest in the outcome of the court's ruling and therefore filed the appropriate motions to adopt the motion and defer acceptance of his guilty plea. By accepting his guilty plea, defendant has now lost his opportunity benefit from co-defendant's motion and must now show good cause to withdraw his plea.

Therefore, Mr. Romero respectfully requests this honorable Court enter an order vacating acceptance of his guilty plea until a ruling has been made on co-defendant's Motion to Suppress.

This motion is not sought for purposes of delay or to impede justice but is made in good faith in accordance to Mr. Romero's rights provided him by the United States Constitution.

III.

Counsel has conferred with Assistant United States Attorney Chris Rapp and who was **unopposed to defendant's original motion** to defer acceptance of the guilty plea.

WHEREFORE PREMISES CONSIDERED, Defendant respectfully requests that the court it's order acceptance his guilty plea.

Respectfully submitted,

By: /s/ Gerardo S. Montalvo
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CERTIFICATE OF CONFERENCE

By my signature below, I do hereby certify that I conferred with Assistant United States Attorney Chris Rapp regarding this motion.

/s/ Gerardo S. Montalvo
GERARDO S. MONTALVO

CERTIFICATE OF SERVICE

By my signature below, I do hereby certify that a true and correct copy of the above and foregoing instrument was served on all known filing users by electronic mail via ECF/NEF and via U.S. First Class Mail and/or hand delivery to all other counsel of record on this the 16th day of October, 2018.

/s/ Gerardo S. Montalvo
GERARDO S. MONTALVO